

FCC 00-2438

Before the
Federal Communications Commission
Washington, D.C. 20554

WT Docket No. 99-328

Released: October 30, 2000

I. INTRODUCTION AND BACKGROUND

2. On August 31, 2000, Qualcomm Incorporated (Qualcomm) filed a Petition for Waiver (Petition) of Section 22.921 of the Commission's Rules with the Wireless Telecommunications Bureau (Wireless Bureau). Specifically, Qualcomm seeks the Commission's permission to continue to manufacture, until November 30, 2000, Qualcomm's TriMode Portable User Terminal handset

³ *Second Report and Order*, 14 FCC Rcd at 10967-87. The Bureau subsequently approved two alternative 911 call completion methods. See 911 Call Processing Modes, WT Docket No. 99-328, Order DA 00-253, Feb. 11, 2000, 2000 WL 145986 (*Ericsson Order*); 911 Call Processing Modes, WT Docket No. 99-328, Order 15 FCC Rcd 1911 (2000) (*Nokia Order*).

(Terminal) designed primarily for operation with Globalstar USA, Inc.'s (GUSA) satellite network system.⁴ Qualcomm indicates that its Terminals may operate in satellite, digital cellular or analog cellular modes, but that satellite is the principal mode of operation.⁵ Qualcomm states that the Terminal provides 911 call completion in all three operating modes, but does not incorporate an approved call completion capability for 911 calls in the analog mode.⁶ Qualcomm further states that it only recently became aware that Section 22.921 applied to Terminals manufactured in the United States after February 13, 2000 and cites corporate restructuring from the sale of the division responsible for manufacture of its handsets and the resulting loss of regulatory compliance expertise as the cause of its non-compliance.⁷

3. Qualcomm claims that none of the Terminals manufactured after February 13, 2000 has entered the U.S. market.⁸ Qualcomm believes that development, testing and installation of software that incorporates Automatic A/B Roaming-Intelligent Retry in its Terminals presently awaiting shipment to or held by its distributors can be completed within three months.⁹ Further, Qualcomm states that it will not deliver Terminals to end users in the U. S. until they have been made compliant with Section 22.921.¹⁰ Moreover, Qualcomm intends to provide the software for all Terminals, even those manufactured before February 13, 2000, that are returned for service or repair.

4. The Bureau sought comment on Qualcomm's request;¹¹ GUSA filed comments in support of granting the waiver. No party filed comments opposing the waiver. GUSA argues that grant of the requested waiver would ensure worldwide availability of enhanced emergency calling capabilities without undermining the purpose of Section 22.921.¹²

⁴ Qualcomm Petition at 1. GUSA is the exclusive provider of Globalstar Mobile Satellite Services in the United States. *Id.* at 3-4.

⁵ *Id.* at 2-3. To enable terrestrial operation with the Terminal, a user must purchase a cellular service contract with a digital or analog service provider. *Id.* at 4.

⁶ *Id.* at 4-5. GUSA clarifies that when a Globalstar Terminal is operating in satellite mode, GUSA directs 911 calls to a service bureau which may transfer the call to an appropriate PSAP. GUSA Comment at 5-6. As GUSA notes, the Commission does not currently impose E911 capability requirements on mobile satellite services. However, while the Commission continues to examine whether to impose wireless E911 rules on certain satellite services, it expects licensees of such services to coordinate with public safety agencies to develop emergency access services. The Establishment of Policies and Service Rules for the Mobile Satellite Service in the 2 GHz Band, IB Docket No. 99-81, Notice of Proposed Rulemaking, 14 FCC Rcd 4843, 4884-86 (1999), *Report and Order*, FCC 00-302, adopted Aug. 14, 2000, released Aug. 25, 2000; Amendment of Parts 2 and 25 to Implement the Global Mobile Personal Communications by Satellite (GMPCS) Memorandum of Understanding and Arrangements, IB Docket No. 99-67, *Notice of Proposed Rulemaking*, 14 FCC Rcd 5871, 5907-08 (1999).

⁷ *Id.* at 5.

⁸ *Id.* at 6.

⁹ *Id.*

¹⁰ *Id.*

¹¹ Public Notice, "WTB Seeks Comment on Request for Temporary Waiver of Wireless 911 Call Processing Rules by Qualcomm Incorporated," DA 00-2048, released Sept. 7, 2000.

¹² See GUSA Comment at 4-5.

DISCUSSION

5. By its terms, Section 22.921 is applicable to all handsets capable of operating in analog mode manufactured after February 13, 2000. All manufacturers of handsets capable of operating in analog cellular mode, regardless of whether this may be the handset's secondary or tertiary operating mode, should be aware of the need to comply with this requirement. Indeed, as recently as June 30, 2000, two months before Qualcomm filed its Petition for Waiver, the Wireless Bureau issued an Order addressing issues similar to those that Qualcomm presents.¹³ We note, however, that issues concerning Qualcomm's compliance with Section 22.921 in the manufacture of Terminals after February 13, 2000 are being addressed collaterally through a Consent Decree today adopted by the Commission's Enforcement Bureau (Consent Decree).¹⁴

6. We find that a limited waiver of Section 22.921 until November 30, 2000 to permit the continued manufacture of Qualcomm's Terminals is justified to afford consumers continued access to mobile satellite service. In many instances, as Qualcomm and GUSA point out, mobile satellite service may provide an important additional emergency telecommunications resource, especially to callers located in remote and rural areas and callers located in underpopulated regions where neither landline nor terrestrial mobile services exists.¹⁵ Mobile satellite systems, such as the Globalstar system, can provide continuous, reliable coverage in many areas where cellular coverage is patchy. For this reason, emergency and disaster relief organizations such as the American Red Cross increasingly rely upon satellite technology.¹⁶

7. Moreover, we find that a waiver is justified in light of the fact that Qualcomm represents that no non-compliant Terminals have been distributed in the U.S. Further, Qualcomm commits that all terminals manufactured after February 13, 2000, even those manufactured during the waiver period, will be fitted with the new call completion software before being distributed in the United States.¹⁷ Qualcomm also commits to offer the software upgrade to any GUSA customer who seeks it and will automatically upgrade the software in any phone returned for service or repair, even if manufactured prior to February 13, 2000.¹⁸ In view of these commitments, we believe that Qualcomm has taken adequate steps to ensure that there will be no detriment to the public safety occasioned by grant of this waiver.

8. Thus, to enable Qualcomm to incorporate the necessary modifications into its Terminals to make them fully compliant with 47 C.F.R. § 22.921, we conclude that it is in the public interest to grant Qualcomm's request for a limited extension of time to come into full compliance with the rule. We

¹³ In the Matter of Samsung Telecommunications America, Inc. and Samsung Electronics Co., Ltd., Request for Temporary Relief Regarding 911 Call Completion Processing Modes, WT Docket No. 99-328, Order, 15 FCC Rcd 11708 (2000) (*Samsung Order*).

¹⁴ In the Matter of Qualcomm Incorporated, Order, DA 00-2431, (Enf. Bureau), released October 30, 2000. (*Consent Decree*).

¹⁵ Qualcomm Petition at 3; GUSA Comment at 5.

¹⁶ Qualcomm Petition at 8.

¹⁷ *Id.* at 6.

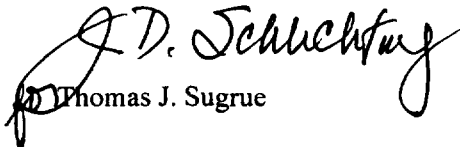
¹⁸ *Id.* at 10.

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condition this grant upon Qualcomm's execution of the remedial measures outlined in this Order and the Consent Decree.¹⁹

9. Accordingly, IT IS ORDERED that Qualcomm's request for a temporary waiver of Section 22.921 of the Commission's Rules, until November 30, 2000 IS GRANTED to the extent indicated herein.

FEDERAL COMMUNICATIONS COMMISSION


Thomas J. Sugrue

Chief, Wireless Telecommunications Bureau

¹⁹ See Consent Decree.